

### § 39.83

State or Tribal Organization to determine which of the following will be required prior to submission of an application. As determined by VA, these may include:

(1) A boundary and site survey comprising a survey and legal description of the existing State or Tribal cemetery site;

(2) Project drawings indicating the cemetery section(s) to be impacted by the Operation and Maintenance Project, gravesite section layout with permanent section monument markers and lettering system, and the total number of gravesites to be impacted;

(3) Project specifications (to be used for bid purposes), which shall include the invitation for bid, cover or title sheet, index, general requirements, form of bid bond, form of agreement, performance and payment bond forms, and detailed descriptions of materials and workmanship for the work to be performed to meet VA's national shrine standards;

(4) A detailed estimate of the total cost of the work to be performed under the contract; or

(5) A site Environmental Assessment meeting the provisions of §39.34(b) to determine if an Environmental Impact Statement is necessary for compliance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4332), as a result of the work to be performed on the headstones and markers, gravesites, or turf conditions.

(c) If VA determines that the project's plans and specifications comply with the terms and conditions prescribed by VA, VA will send the State or Tribal Organization a written letter of approval indicating that the project's plans and specifications comply with the terms and conditions as prescribed by VA. This does not constitute approval of the contract documents. It is the responsibility of the State or Tribal Organization to ascertain that all State and Federal requirements have been met and that the

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drawings and specifications are acceptable for bid purposes.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0559)

[75 FR 34005, June 16, 2010, as amended at 77 FR 4477, Jan. 30, 2012]

### § 39.83 Conferences.

(a) *Planning conference.* The VCGS may require planning conferences for Operation and Maintenance Projects, primarily to ensure that the State or Tribal Organization becomes oriented to VA's national shrine standards, procedures, requirements, and any technical comments pertaining to the project. These conferences will normally occur over the telephone.

(b) *Additional conferences.* At any time, VA may recommend an additional telephone conference to provide an opportunity for the State or Tribal Organization to discuss with VA officials the requirements for an Operation and Maintenance Project grant.

(Authority: 38 U.S.C. 501, 2408)

[77 FR 4478, Jan. 30, 2012]

### § 39.84 Application requirements.

For an Operation and Maintenance Project to be considered for grant funding under this subpart, the State or Tribal Organization must submit an application (as opposed to a preapplication) consisting of the following:

(a) Standard Form 424 (Application for Federal Assistance) with the box labeled "application" marked;

(b) Standard Form 424C (Budget Information), which documents the amount of funds requested based on the construction costs as estimated by the successful construction bid;

(c) A copy of itemized bid tabulations; and

(d) Standard Form 424D (Assurances—Construction Program).

(e) VA Form 40–0895–11 (Memorandum of Agreement for a Grant to Construct or Modify a State or Tribal Government Veterans Cemetery) to identify the parties (VA and applicant), identify the scope of the project, and indicate

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how the grant award funds will be paid to the applicant.

(f) VA Form 40-0895-12 (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (Contractor)) to ensure that the contractor has not been debarred or suspended, and is eligible to participate in the VA grant process and receive Federal funds.

(Authority: 38 U.S.C. 501, 2408)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 4040-0002, 4040-0008, 4040-0009, and 2900-0559)

[75 FR 34005, June 16, 2010, as amended at 77 FR 4478, Jan. 30, 2012]

### § 39.85 Final review and approval of application.

Following VA approval of bid tabulations and cost estimates, the complete Operation and Maintenance Project grant application will be reviewed for approval in accordance with the requirements of § 39.80. If the application is approved, the grant will be awarded by a Memorandum of Agreement of Federal grant funds.

(Authority: 38 U.S.C. 501, 2408)

### §§ 39.86–39.99 [Reserved]

#### AWARD OF GRANT

### § 39.100 Amount of grant.

(a) The amount of an Operation and Maintenance Project grant awarded under this subpart may not exceed 100 percent of the total cost of the project, but may be less than total cost of the project.

(b) The total cost of a project under this subpart may include any or all of the following costs:

(1) Administration and design costs, e.g., architectural and engineering fees, inspection fees, and printing and advertising costs.

(2) Construction costs.

(3) The cost of VA-approved equipment that is necessary for the completion of the project.

(c) The total cost of a project under this subpart may not include the cost of any of the following:

(1) Land acquisition;

(2) Buildings of any type;

(3) Improvements not on cemetery land, such as access roads or utilities;

(4) Office supplies or consumable goods (such as fuel and fertilizer) that are routinely used in a cemetery; or

(5) Project contingency costs.

(d) VA shall certify approved applications to the Secretary of the Treasury in the amount of the grant, and shall designate the appropriation from which it shall be paid. Funds paid for the operation and maintenance of a veterans cemetery must be used solely for carrying out approved projects.

(Authority: 38 U.S.C. 501, 2408)

### § 39.101 Payment of grant award.

The amount of an Operation and Maintenance Project grant award will be paid to the State or Tribal Organization or, if designated by the State or Tribal Organization representative, the State or Tribal veterans cemetery for which such project is being carried out, or to any other State or Tribal Organization agency or instrumentality. Such amount shall be paid by way of reimbursement and in installments that are consistent with the progress of the project, as the Director of the Veterans Cemetery Grants Service may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved Operation and Maintenance Project shall be used solely for carrying out such project as approved. As a condition for the final payment, the State or Tribal representative must submit to VA each of the following:

(a) Standard Form 271 (Outlay Report and Request for Reimbursement for Construction Programs);

(b) A report on the project accomplishments in accordance with § 39.120 and a request in writing for the final architectural/engineering inspection, including the name and telephone number of the local point of contact for the project;

(c) The written statement, “It is hereby agreed that the monetary commitment of the Federal government will have been met and the project will be considered terminated upon payment of this voucher.”; and

(d) Evidence that the State or Tribal Organization has met its responsibility